

**TOWN OF ELSMERE
PLANNING COMMISSION
MEETING MINUTES
AUGUST 4, 2009
6:30 P.M.**

PLEDGE OF ALLEGIANCE:

CALL TO ORDER:

ROLL CALL:

Commissioner Lindell – Present
Commissioner Sheldon – Present
Commissioner Smith – Present
Commissioner Swain – Present
Commissioner Acton – Present
Commissioner Russo - Present
Chairman Backer – Present

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Approval of the corrected Minutes from the June 3, 2009 Planning Commission Meeting

ACTION: A motion was made by Commissioner Russo to approve the corrected minutes of the June 3, 2009 Planning Commission Meeting. The motion was seconded by Commissioner Lindell.

VOTE: All in favor VOTE: 6-0, 1 Abstained Motion Carried

Approval of the minutes from the July 7, 2009 Planning Commission Meeting

ACTION: A motion was made by Commissioner Russo to approve the minutes of the July 7, 2009 Planning Commission Meeting. The motion was seconded by Commissioner Lindell.

VOTE: All in favor VOTE: 6-0, 1 Abstained Motion Carried

NEW BUSINESS:

The Planning Commission Reviewed Petition 09-10 Tax Parcel Number 1900400566 known as 930 Kirkwood Hwy.

Mr. Chase Rujan, Manager of Cell Talk presented his case. He explained that they would not be adding an additional business to the building, just an additional service to the existing business. He stated that they plan to have a low impact business with 1-2 walk in customers a day. He stated that he feels that this would be good for the local community.

Commissioner Russo asked if this business requires a separate license with the State of Delaware and if so, is it under the same corporate name as Cell Talk.

Mr. Rujan stated that they are a licensed lender with the state and he does believe that it is under the same name.

Commissioner Russo asked if this requested business would be a separate corporation or if it would be under the same company as Cell Talk.

Mr. Rujan stated that it would be under the existing company of Cell Talk.

An unidentified speaker stated that it would be a separate corporation owned by the same people.

Chairman Backer asked the speaker to please come up and identify his self.

At this time this portion of the tape was inaudible.

Commissioner Russo clarifies with the applicant they are required to have two separate business licenses which would require that they be classified as adding a second business under the same property, which would require additional parking and signage.

Chairman Backer clarified that this would be a multi-unit entity not a subdivision as Commissioner Russo is referencing.

Commissioner Swain asked Officer Keith Brown what the Town's opinion on this petition is.

Officer Brown stated that the Town would classify this as a two businesses within one structure/unit.

Commissioner Swain questioned the amount of parking that currently exists at the property.

An unknown speaker stated that they have on street parking and an estimate of 10 spaces behind the building.

Officer Brown stated that there are certainly not 10 spaces behind the building.

Commissioner Swain questioned how many spaces they are required to have without the expansion of the business.

Officer Brown stated 1 space per 200 sq. ft. of business plus ADA compliant spaces and employee spaces totaling approximately 13 spaces.

Commissioner Swain clarified the applicant currently does not meet the parking requirements, yet he is requesting a variance to allow a second business within the structure which would require additional parking that he is requesting a variance from.

The applicant confirmed that was correct.

A discussion occurred regarding the requested variance for a sign, and materials on that not being available, due to multiple people speaking at the same time this was unable to be transcribed.

Commissioner Acton stated that this building was allowed to be used as a non-conforming property. Chapter 225 of the Town of Elsmere Code states that no non-conforming use shall be permitted to expand. He questioned if this would be considered the expansion of a non-conforming use of the property.

Chairman Backer agreed with Commissioner Acton.

Chairman Backer asked if there was any written or verbal communication regarding this petition.

Officer Brown stated that there was not, however he would like to give the Town's position on the petition. He stated that when he went to the property it became apparent that the construction of this business had already begun, there were already complaints lodged regarding the amount of cars that are placed for sale at the property (possible a used car business), with the vehicles parked in front of the residential property.

Chairman Backer asked if there were any comments from the public regarding this petition.

Tina Giordano who resides at 922 Wilmington Avenue, she stated that she has a problem with the parking for this business. She stated that on several occasions she has come home to patrons parked in the residents parking. She expressed her concern with the upkeep of the property, the over grown bushes and garbage etc.

Franklin Dorrell who resides at 922 Wilmington Avenue, He stated that the parking for the business has become an issue. When the residents move their cars the customers take the spaces, when the residents let the customers know that the

parking is for the homeowners not the business they are rude. It makes it difficult for residents to bring home groceries and children when they are unable to park in their designated areas.

Michael Sanford who resides at 920 Wilmington Avenue, stated that he has had several problems with the business. When the business first opened the owners placed a bag over the resident parking only sign, when he confronted the business they stated that their customers have no where to park. Mr. Sanford stated he contact the police regarding the situation. He expressed his concern regarding the parking with adding the additional business and the property value adding a second business.

R. C. Bennett who resides at 916 Wilmington Avenue, stated that he is concerned with the parking for the additional service. He stated that they have experienced a significant increase in the amount of parking in the residential section since this business has opened, sometimes as far as halfway down the block.

Commissioner Sheldon asked Mr. Bennett how many cars he thought are parking there on a regular basis and how long he thinks they are parked for.

Mr. Bennett stated that he believed that there is an average of about 5 at a time for about 20 minutes each and they are parked in what is clearly marked as residential parking only.

2nd District Councilman Steve Burg stated that this company does bring up a concern for parking; they are already permitted to operate outside of the requirement for 1 space for every 200 sq. ft of retail space. He expressed that he has spoken with several residents regarding this business. He has requested that the Planning Commission deny this petition or at the least deny the parking variance.

1st District Councilman John Jaremchuk stated that he feels that there isn't a sufficient amount of parking for the existing building, and the applicant is applying to add an additional service that will attract additional customers. He feels that the applicant is simply asking for too much.

Commissioner Lindell stated that he agrees with 1st District Councilman Jaremchuk, they have looked at other businesses in that area and had to determine if the parking would be an issue. They decide the outcome based on each case and for this petition, they are simply asking for too much when there already isn't enough parking.

Chairman Backer entertained a motion.

ACTION: A motion was made by Chairman Swain to recommend that the Board of Adjustments Deny petition 09-10 due to current lack of parking and future additional lack of parking. The motion was seconded by Commissioner Russo.

VOTE: All in favor VOTE: 7-0 Motion Carried

OLD BUSINESS:

None

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: A motion was made by Commissioner Swain to adjourn. The motion was seconded by Commissioner Russo.

VOTE: All in favor VOTE: 7-0 Motion Carried

At this time the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the August 4, 2009 Planning Commission Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

LEON BACKER, CHAIRMAN

CHARLES LINDELL, SECRETARY